

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

IN RE: MIDLAND CREDIT
MANAGEMENT, INC.,
TELEPHONE CONSUMER
PROTECTION ACT LITIGATION

Case No.: 11md2286-MMA-MDD
Member Case No.: 15cv1712-MMA-
MDD

**ORDER RE: JOINT MOTION FOR
DETERMINATION OF
DISCOVERY DISPUTE**

[ECF No. 736]

Plaintiff Ashok Arora (“Arora”) in member case number 15cv1712-MMA-MDD moved to compel Midland¹ to supplement certain discovery responses relating to Plaintiff-specific information. (ECF No. 736). Pursuant to this Court’s September 5, 2018 Order, Midland was required to produce certain “Plaintiff-specific information,” including a list of calls made to Arora on the accounts identified to cellular telephone numbers identified by Arora, account notes or other records relating to Arora’s account, and any consent evidence currently in Midland’s possession. (ECF No. 608 at 4). Arora

¹ The Court refers to all Defendants in this case as “Midland.”

1 contends that Midland's production of such information was insufficient.

2 First, Arora avers that the list of calls produced by Defendant should
3 include the time of day of each call. Midland argues the time of day of each
4 call is irrelevant in this TCPA action. On August 10, 2018, the parties filed a
5 Joint Motion for Order Implementing the Plaintiff Questionnaire and
6 Protective Order and Providing for Limited Preliminary Discovery. (ECF No.
7 603). On August 15, 2018, the Court ordered that any Plaintiff with
8 objections to the implementation of the Questionnaire was required to file
9 objections no later than August 27, 2018. (ECF No. 604). No objections were
10 filed and the Court implemented the Plaintiff Questionnaire and the
11 production of plaintiff-specific information, which does not require Midland to
12 list the time of day of each call. (ECF No. 608). Arora could have objected to
13 the questionnaire and Midland's proposed productions on the grounds that it
14 would not require Midland to provide the time of day each call was made.
15 The failure to object waives this argument.

16 Second, Arora contends Midland must produce account notes or other
17 records relating to the account Midland called Arora about. Arora
18 acknowledges that any account notes it has do not pertain to Arora because
19 the calls to his telephone number were wrong-number calls. However, Arora
20 still asserts he is entitled to those account notes because they are protected
21 by the Protective Order in this case. Midland counters that the account notes
22 are not relevant to Arora's case. The Court agrees with Midland. Arora is
23 not entitled to a third party's confidential information, even with the
24 Protective Order because they are not relevant.

25 Midland has told Arora that it has produced all of the documents
26 required by the Court's September 5, 2018 Order. The Court's September 5,
27 2018 Order is unique to this Multi-District Litigation ("MDL") and is a

1 method of obtaining discovery relevant to this MDL without requests for
2 production of documents and interrogatories. Thus, Midland was not
3 required to object or state that they do not have other records relating to
4 Arora's number. Midland's statement that it has produced all of the
5 document required by the Court's order is sufficient.

6 Third, Arora moves to compel evidence regarding consent possessed by
7 Midland. According to Arora, Midland has neither stated that they do not
8 possess any consent evidence nor objected to this request. As indicated
9 previously, Midland was neither required to object nor state that they do not
10 have any consent evidence and Midland's response that it produced all
11 documents required by the Court's order is adequate.²

12 Based on the foregoing, the Court **DENIES** Arora's motion to compel as
13 presented in this Joint Motion.

14 **IT IS SO ORDERED.**

15 Dated: January 6, 2020

Mitchell D. Dembin

16 Hon. Mitchell D. Dembin
17 United States Magistrate Judge

26 _____
27 ² The Court notes, however, that Midland could have avoided this dispute by simply
stating it does not have consent evidence regarding Arora.